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Before The
FEDERAL COMMUNICATIONS COMMISSION
Washington, D.C. 20554

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FEDERAL COMMUNICATIONS COMMISSION
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MM Docket 92-264

In the Matter of

Implementation of Sections 11
and 13 of the Cable Television
Consumer Protection and Competition
Act of 1992

Horizontal and Vertical Ownership
Limits, Cross-Ownership Limitations
and Anti-trafficking Provisions

REPLY OF BELL ATLANTIC¹

As Bell Atlantic's petition for reconsideration demonstrated, there is no possible justification for applying either vertical or horizontal ownership limits to any competitor where head-to-head competition exists.² This is especially true where one of the competitors is a common carrier video dialtone system.³

Only CFA disagrees, and its arguments are misplaced.⁴ CFA bases its argument on the mistaken premise that Bell Atlantic is asking the Commission to rule that its ownership limits do not

¹ "Bell Atlantic" includes The Bell Atlantic Telephone Companies of Delaware, the District of Columbia, Maryland, Pennsylvania, New Jersey, Virginia and West Virginia.

² See Petition of Bell Atlantic for Limited Reconsideration (filed Dec. 15, 1993).

³ Id. at 4-5.

⁴ See Opposition to Petition for Reconsideration of Center for Media Education and Consumer Federation of America (collectively "CFA") (filed Feb. 14, 1994).

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apply whenever there is some "theoretical" possibility of competition in the future.⁵ While it is true that the need for applying arbitrary vertical or horizontal limits to an open common carrier system is questionable under any circumstances, that is not the issue presented by Bell Atlantic's petition. Rather, the point of the petition is that, at a minimum, those limits should not apply to any competitor -- whether a traditional cable system or a common carrier video dialtone system -- where actual head-to-head competition exists. On this issue, CFA offers no meaningful response.

For example, CFA argues that vertical ownership limits should always apply to protect against any incentive to disfavor non-affiliated programmers.⁶ But CFA ignores the fact that, where competition exists, competing distributors will have strong incentives to ensure that consumers are able to obtain the programming they value -- regardless of source. Under these circumstances, the competitive marketplace will ensure that independent programmers will have a means of distributing their programming. And where one of the competitors is a common carrier video dialtone system, all programmers will have the

⁵ CFA Pet. at 2.

⁶ Id. at 4.

added assurance of being able to obtain access on the same terms as any other programmer.

And CFA is wrong that applying vertical limits to new entrants would not require them to warehouse unused capacity because "a plethora of new programming exits."⁷ While there are approximately 90 national programming channels,⁸ the competitive video distribution networks now under development will have many times this capacity.⁹ Forcing new entrants to let a large portion of their capacity lie fallow, rather than to try to fill it with innovative new services, will serve no purpose except to deter new entry.

Finally, CFA also is wrong that applying horizontal limits to competitive systems such as video dialtone will not suppress competition. Under these circumstances, the only effect

⁷ Id. at 4-5.


⁸ NCTA, Cable Television Developments 1-C through 39-C (Nov. 1993).

⁹ For example, the video dialtone systems that Bell Atlantic has proposed in New Jersey will be capable of carrying a minimum of 384 channels upon completion. See Amendment and Clarification, Application of New Jersey Bell Tel. Co., W-P-C-6838 (filed Sept. 2, 1993).

of applying the limit will be to prevent established companies from invading each others' territories, and to ban new entry by those companies that are best equipped to compete.

Respectfully submitted,

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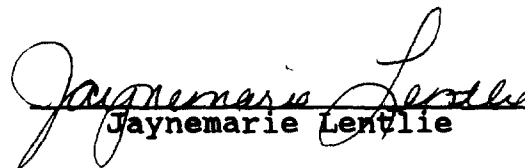

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February 28, 1994

CERTIFICATE OF SERVICE

I hereby certify that a copy of the foregoing "Reply of Bell Atlantic" was served this 28th day of February, 1994, by first class mail, postage prepaid, on the parties on the attached list.


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